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NOTICE OF ALLOWANCE AND FEE(S) DUE

21378

7590

01/11/2010

APPLIED MEDICAL RESOURCES CORPORATION
22872 Avenida Empresa
Rancho Santa Margarita, CA 92688

EXAMINER

NGUYEN, TUAN VAN

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 01/11/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,387	02/10/2004	Scott V. Taylor	AUS-2265-AL	3912
TITLE OF INVENTION: ACCESS SEALING APPARATUS AND METHOD				

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	04/12/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

21378 7590 01/11/2010

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Rancho Santa Margarita, CA 92688

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/776,387 02/10/2004

Scott V. Taylor

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nonprovisional	YES	\$755	\$300	\$0	\$1055	04/12/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
NGUYEN, TUAN VAN	3731	606-185000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 500 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 500 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/776,387

Examiner

TUAN V. NGUYEN

Applicant(s)

TAYLOR ET AL.

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/15/09.
2. ☒ The allowed claim(s) is/are 1-5,8,9,12,15-25,31,47 and 48.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☒ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/TUAN V NGUYEN/
Examiner, Art Unit 3731

Oath/Declaration

Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application Patent Conventional Treaty Application Serial No. PCT/US02/15696 filed on May 14, 2002 and U.S. Provisional application Serial no. 60/312,683 filed on August 14, 2001 (see specification, Cross Reference to Related Applications). Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

Examiner's amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Pui Tong Ho (Reg. No. 44,155) on December 15, 2009.

According to the present Examiner's amendment, Claims 1, 8, 15, 24 and 47 have been amended and claims 6, 7, 10, 11, 13, 14, 26-30, 48-53 and 55 have been cancelled. Claims 1-5, 8, 9, 12, 15-25, 31, 47, and 48 are allowed over prior art of record.

1. (Currently amended) A trocar adapted to provide access for a surgical instrument through a body wall and into a body cavity, comprising:

a cannula having a proximal end and a distal end;

a seal housing, includes an inner surface, communicating with the cannula to define a working channel;

a seal assembly disposed within the seal housing; and

~~at least one~~ a first conformable and a second conformable rollers included in the seal assembly, each ~~and~~ having a substantially cylindrical outer surface, a pair of end surfaces and an axle supported by the seal housing;

wherein the substantially cylindrical outer surface of the conformable rollers is dimensioned and configured for forming a zero seal in the absence of an instrument extending therethrough, and for contacting with and conforming to an instrument, thereby forming an instrument seal in the presence of the instrument extending therethrough, and wherein the substantially cylindrical surfaces and the end surfaces of the conformable rollers form lateral seals and end seals with the inner surface of housing.

8. (Currently amended) The trocar recited in Claim 1, wherein:

the first roller has the configuration of a first cylinder with a first radius;

the second roller has the configuration of a second cylinder with a second radius; and

the first axle is separated from the second axle a distance not greater than the sum of the first radius and the second radius.

15. (Currently amended) A surgical combination, comprising:

an instrument having a diameter of at least about one millimeter;

an access device adapted to facilitate disposition of the instrument across a body wall;

a cannula included in the access device and having an axis extending between a proximal

end and a distal end;

a seal housing, includes an inner surface, communicating with the cannula, to define a working channel with the cannula;

a seal assembly disposed within the seal housing of the access device;
and

a first conformable and a second conformable rollers included in the seal assembly, the roller comprising a substantially cylindrical outer surface sized and configured to form a zero seal in the absence of the instrument, and to contact with and conform to the instrument, thereby forming an instrument seal therewith in the presence of the instrument, each roller further includes a pair of end surfaces, wherein the substantially cylindrical surfaces and the end surfaces of

the conformable rollers form lateral seals and end seals with the inner surface of the housing.

24. (Currently amended) A trocar assembly, including:

a cannula extending along an axis between a proximal end and a distal end;

a seal housing, includes an inner surface, communicating with the cannula to define a working channel;

a first and a second rollers disposed within the seal housing, the rollers comprising a substantially cylindrical outer surface and a pair of end surfaces, wherein the roller is pivotal on an axis; and

a resilient material included in the roller, wherein the resilient material is susceptible to tearing in response to an instrument inserted into the working channel, the resilient material provides the substantially cylindrical outer surface of the roller with properties for forming a zero seal in the absence of the instrument, ~~and an instrument seal in the presence of the instrument~~ and the substantially cylindrical surfaces and the end surfaces of the rollers form lateral seals and end seals with the inner surface of the housing; and

the rollers are is moveable by the inserted instrument to pivot the resilient material relative to the axis to inhibit tearing of the resilient material.

47. (Currently amended) A trocar assembly, comprising:

a cannula having an axis extending between a proximal end and a distal end;

a valve housing, includes an inner surface, communicating with the cannula to define a working channel; and

a roller valve disposed on at least one ~~an~~ axle in the valve housing, the roller valve comprising a first and a second rollers, each roller comprising a substantially cylindrical outer surface and a pair of end surfaces, wherein ~~the roller valve comprises a compliant material~~, the substantially cylindrical outer surface comprising a compliant material having properties for forming a zero seal across the working channel in the absence of the instrument, and an instrument seal across the working channel in the presence of the instrument, wherein the instrument seal has a diameter in radial cross-section ranging from a lower limit of about zero millimeters to an upper limit greater than about 6 millimeters, and wherein the substantially cylindrical surfaces and the end surfaces of the rollers form lateral seals and end seals with the inner surface of the housing.

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance: The prior art of record does not appear to disclose or suggest a motivation to combine a trocar adapted to provide access for a surgical instrument through a body wall and into a body cavity, comprising, inter alia:

a seal housing, includes an inner surface; a seal assembly disposed within the seal housing having a first conformable and a second conformable rollers, each conformable roller includes a substantially cylindrical outer surface, a pair of end surfaces and an axle supported by the seal housing; wherein the substantially cylindrical surfaces and the end surfaces of the rollers form lateral seals and end seals with the inner surface of housing and the substantially cylindrical outer surfaces of the conformable rollers also forming a zero seal in the absence of an instrument extending therethrough, and for contacting with and conforming to an instrument, thereby forming an instrument seal in the presence of the instrument extending therethrough.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN V. NGUYEN whose telephone number is (571)272-5962. The examiner can normally be reached on M-F: 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AnhTuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. V. N./
Examiner, Art Unit 3731

/Anh Tuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
12/18/2009